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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/763,891

01/23/2004

Robert S. Tirey

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03/17/2008

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EXAMINER

SKURDAL, COREY NELSON

ART UNIT

PAPER NUMBER

3782

MAIL DATE

DELIVERY MODE

03/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/763,891

Applicant(s)

TIREY, ROBERT S.

Examiner

COREY N. SKURDAL

Art Unit

3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-8 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-8 and 15-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-8, 15, and 20-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, claim 6 lines 13 and 14, claim 20 line 3, and claim 22 line 3 recite the limitation "one of the horizontal partitions". This limitation renders the claim indefinite because Applicant has only disclosed one horizontal partition 47 in the specification and drawings, and it is unclear if Applicant is actually attempting to claim multiple horizontal partitions within the cabinet interior. For examination it will be assumed that Applicant is attempting to claim one horizontal partition that defined between the sidewalls 24, the vertical partition 46, and the outer wall 20.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 6, 7, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens (US 2,711,213) in view of Merriman et al. (US 3,253,859).

Regarding claims 6 and 7 and in view of the indefiniteness, Owens discloses a storage unit 10 for a motor vehicle substantially as claimed including: a seat back 24 comprising a forward slanting section, an upper section, a rear, and a seat bottom (see Figure 1); a cabinet 10 comprising a cabinet top 16, an opposite cabinet base 18, cabinet sidewalls 20/22 between the cabinet top and the cabinet base, and an outer wall 14 located between the cabinet sidewalls; an inner wall 26 opposite the outer wall and between the cabinet sidewalls and located adjacent the rear of the seat back at the forward slanting section; a cabinet interior defined by the cabinet top, the cabinet base, the cabinet sidewalls, the outer wall and the inner wall; horizontal 38/40 and vertical 12/36 partitions within the cabinet interior; a storage compartment 44 within the cabinet interior being defined by at least two intersecting vertical partitions 12/36, the outer wall, one of the cabinet sidewalls 20, and one of the horizontal partitions 38 being located between the outer wall and one of the intersecting vertical partitions 12.

Owens does not disclose attaching the cabinet to the seat through multiple tabs extending outwardly from the cabinet inner wall and being welded to the seat frame within the seat back. Instead Owens uses hook member 34. However, Merriman teaches that it is well known to mount an external unit 10 to the rear of vehicle seat through multiple outwardly extending bolts (tabs) 48 which are secured directly to the seat frame 46 located with the seat back. It would have been obvious to one skilled in the art to mount the cabinet of Owens in the manner taught by Merriman (with bolts on the inner wall 26 and attached directly to the seat frame) in order to provide an alternate and more secure means for mounting the cabinet to a seat. The modified Owens device

does not disclose the tabs being welded to the seat frame. However, it would have been an obvious matter of design choice to weld the tabs/bolts of modified Owens directly to the seat frame, since applicant has not disclosed that having the tabs welded to the frame solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the tabs/fasteners of modified Owens threaded to the frame.

Regarding claim 7, Owens discloses that exterior compartments 54 may be attached to the sidewall 22 of the cabinet but does not disclose the exterior compartment attached to the outer wall. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the exterior compartments 54 to the outer wall 14, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claim 20, Owens discloses a second compartment which may be defined between the inner wall 26 and the vertical partition 12, the sidewalls 20/22 and a mouth/slot defined at the top as seen in Figure 3.

Regarding claim 21, Owens discloses a third compartment 46 defined by vertical partition 36, base 18, outer wall 14, and sidewall 22.

5. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owens (US 2,711,213) in view of Pesta et al. (US 6,142,561).

Owens discloses a storage unit 10 for a motor vehicle substantially as claimed including: a seat back 24 comprising a forward slanting section, an upper section, a rear, and a seat bottom (see Figure 1); a cabinet 10 comprising a cabinet top 16, an

opposite cabinet base 18, cabinet sidewalls 20/22 between the cabinet top and the cabinet base, and an outer wall 14 located between the cabinet sidewalls; an inner wall 26 opposite the outer wall and between the cabinet sidewalls and located adjacent the rear of the seat back at the forward slanting section; a cabinet interior defined by the cabinet top, the cabinet base, the cabinet sidewalls, the outer wall and the inner wall; horizontal 38/40 and vertical 12/36 partitions within the cabinet interior; a storage compartment 44 within the cabinet interior being defined by at least two intersecting vertical partitions 12/36, the outer wall, one of the cabinet sidewalls 20, and one of the horizontal partitions 38 being located between the outer wall and one of the intersecting vertical partitions 12.

Owens does not disclose attaching the cabinet to the seat through multiple rectangular tongues extending outwardly from the cabinet inner wall and being received in corresponding rectangular receivers attached directly to a support column in the seat back, instead Owens uses hook members 34. However, Pesta et al. teaches that it is well known to mount an external unit 22 to the rear of vehicle seat through multiple outwardly extending rectangular tongues 68 which releasably and matingly engage corresponding rectangular receivers 26 attached directly to a support column 24 of seat frame 16. It would have been obvious to one skilled in the art to mount the cabinet of Owens in the manner taught by Pesta (with rectangular tabs and receivers) in order to provide an alternate and more secure means for mounting the cabinet to a seat. In doing so, a support column 24 with receivers 26 as taught by Pesta, would be provided

within the seat back of Owens, and further rectangular tongues 68 would be provided on the inner surface of the cabinet.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Owens in view of Merriman, as applied to claim 6, and further view of Bohnett (US 2,934,391). Modified Owens discloses the invention substantially as claimed but does not have slots in the cabinet walls, or removable partitions. Bohnett teaches an organizing cabinet for use in a vehicle including a cabinet 13 with slots 23 and 28 on the inner wall and removable partitions 24 and 29 adapted to engage the slots. Therefore it would have been obvious to one skilled in the art at the time of invention to provide Owens to make the partitions removably held in slots, as taught by Bohnett, in order to allow users to selectively construct additional compartments within the cabinet.

7. Claims 17-19, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Owens in view of Pesta et al., as applied to claim 16 and in further view of Bohnett (US 2,934,391).

Regarding claims 17 and 19, Bush et al. discloses the invention substantially as claimed and as applied to claim 16, but does not have the partition being removably held in slots. However, Bohnett discloses an organizing cabinet for use in a vehicle including a cabinet 13 with slots 23 and 28 on the inner wall and removable partitions 24 and 29 adapted to engage the slot. Therefore it would have been obvious to one skilled in the art at the time of invention to provide Owens with slots and removable partitions in order to allow users to selectively construct additional compartments within the cabinet.

Regarding claim 18, Owens discloses that exterior compartments 54 may be attached to the sidewall 22 of the cabinet but does not disclose the exterior compartment attached to the outer wall. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to attach the exterior compartments 54 to the outer wall 14, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claim 22 and in view of the indefiniteness, Owens discloses a second compartment which may be defined between the inner wall 26 and the vertical partition 12, the sidewalls 20/22 and a mouth/slot defined at the top as seen in Figure 3.

Regarding claim 23, Owens discloses a third compartment 46 defined by vertical partition 36, base 18, outer wall 14, and sidewall 22.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. Owens discloses a cabinet having the general structure claimed by Applicant, and Merriman and Pesta disclose two different methods of securing an external accessory on the rear side of a vehicle seat and to the seat frame. Both combinations are considered obvious as replacing one mounting means for another that is well known in the art.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to COREY N. SKURDAL whose telephone number is (571)272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNS
3/4/2008

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782